

AO 91 (Rev. 01/09) Criminal Complaint

UNITED STATES DISTRICT COURT

NOV 08 2019

for the
 District of New Mexico

MITCHELL R. ELFERS
 CLERK OF COURT

United States of America
 v.

Rogelio RIVAS

Case No:

19mj4017

 Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date of November 04, 2019 in the county of Dona Ana in the State and District of New Mexico, the defendant violated 18 U.S.C. §8 USC 1324(Alien Smuggling), an offense described as follows:

engaged in a conspiracy to commit a violation of 8 USC 1324(a)(1)(a)(v)(I) Conspiracy, to wit: 8 USC 1324(a)(1)(a)(ii) Transporting, knowing or in reckless disregard of the fact that, ALIENS, had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such aliens within the United States by means of transportation or otherwise, in furtherance of such violation of law

This criminal complaint is based on these facts:

On November 4, 2019, a Border Patrol Agent (BPA 1) was working in the Zone 15 area of the Santa Teresa Border Patrol Stations Area of Responsibility in his assigned unmarked Border Patrol unit. At approximately 8:27 p.m. A Supervisory Border Patrol Agent (SBPA) observed a black Dodge pickup driving down Binational Ave. towards the Cattle Pens/Onion Warehouse area. This area is known to agents as high traffic area for alien smuggling. The SBPA advised (via service radio) to agents in the area and another SBPA responded to the area in his marked Border Patrol unit. The SBPA was able to run checks on the black Dodge pickup bearing New Mexico license plate AMJJ83 through El Paso Sector Radio (KAK-880).

☒ Continued on the attached sheet.



 Complainant's signature
 Jose Lozano, Agent

 Printed name and title

Sworn to before me and signed in my presence.

Date: November 8, 2019

City and state: Las Cruces, N.M.



 Judge's signature
 GREGORY J. FOURATT
 U.S. MAGISTRATE JUDGE

 Printed name and title

CONTINUATION OF CRIMINAL COMPLAINT

STATE AND DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

V.

Rogelio RIVAS

Continuation of Statement of Facts:

KAK-880 advised (via service radio) the SBPA that the vehicle came back to an address of 314 Carrizo Dr. in Sunland Park, NM. The SBPA advised (via service radio) that the black Dodge was leaving the area, near the cattle pens and driving towards the warehouses on the west side of Pete Domenici Hwy. This area is near the Stanco Warehouse, approximately two miles west of the Santa Teresa Port of Entry and is also known to agents as a high traffic area for alien smuggling.

BPA 1 was able to observe the black Dodge pickup driving in the area of the Stanco warehouse and kept continuous visual of the vehicle as it parked north of the Stanco Warehouse. BPA 1 kept visual of the vehicle for approximately 20 minutes. Shortly thereafter, the vehicle departed the area with no one getting in or out of the vehicle while it was parked. BPA 1 then followed the vehicle out of the area and onto Pete Domenici Hwy traveling northbound. Shortly thereafter, BPA 1 decided to pass the vehicle since it was traveling at a very slow speed.

As BPA 1 passed the vehicle, he noticed that the driver side window was down and was able to observe the driver and a front passenger. BPA 1 was able to describe the driver as a young male wearing an orange or red shirt with his hair pulled back into a pony tail and the side of his head shaved. BPA 1 passed the vehicle and continued traveling to the intersection of Pete Domenici and Airport Rd., approximately three miles ahead of the vehicle. BPA 1 parked on the side of the road to wait for the vehicle. BPA 1 observed the vehicle pull up to the intersection where he was parked and it pulled into the left turning lane. BPA 1 observed the vehicle stop at the red light and when the light turned green it made a U-turn and proceeded back southbound on Pete Domenici Hwy. towards the Stanco Warehouse area.

BPA 1 then proceeded to follow the vehicle southbound for a short time, then BPA 1 decided to pass the vehicle. BPA 1 continued to drive towards the Stanco Warehouse area to see if the vehicle was going to go back to the area he had observed it at before. As BPA 1 passed the vehicle, he noticed that the driver was talking on a cellular phone and driving at a slow speed, well below the posted speed limit.

Continuation of Statutory Language:

BPA 1 drove to the intersection of Saint Francis Dr. and Pete Domenici Hwy. and parked. BPA 1 waited for approximately three minutes when he observed the vehicle driving on the road that leads to the Stanco Warehouse. BPA 1 advised (via service radio) agents in the area that the vehicle was back in the area and then drove to a location north of the Stanco Warehouse. BPA 1 then noticed that the vehicle drove to the same warehouse, located north of the Stanco Warehouse, but this time the vehicle drove towards the rear of the warehouse. BPA 1 then noticed that the vehicle made a U-turn behind the warehouse and immediately departed the area. BPA 1 then proceeded to follow the vehicle at a safe distance as it crossed Pete Domenici Hwy. traveling east bound towards the cattle pens area on Binational Rd. BPA 1 advised (via service radio) that the vehicle was going towards where a SBPA was set up at, to which the SBPA acknowledged. BPA 1 then parked at the New Mexico Department of Transportation Building, located at the corner of Binational Ave and Pete Domenici Hwy. The SBPA advised (via service radio) agents in the area that he had visual of the vehicle that had made a U-turn near the cattle pens and stopped. Approximately one minute later, the SBPA advised (via service radio)

agents in the area that the vehicle was departing the area at a high rate of speed.

At approximately 2247 hours, BPA 2 responded to the intersection of Pete Domenici Highway and Binational Ave. in his assigned unmarked vehicle. BPA 2 observed the vehicle make a right turn onto Pete Domenici Hwy. traveling northbound without yielding to the stop sign. BPA 2 then advised (via service radio) agents of his observation and began to follow the vehicle at a safe distance. BPA 2 requested a marked unit to respond in order to conduct a vehicle stop. BPA 2 advised (via service radio) that the vehicle was traveling at a high rate of speed. A SBPA requested (via service radio) to attempt to pull over the vehicle before it reached the New Mexico Highway 9 (NM Hwy 9) intersection. BPA 2 then activated his emergency lights behind the vehicle and the vehicle accelerated to a faster speed. Shortly thereafter, BPA 2 advised (via service radio) that the vehicle was refusing to stop. The SBPA advised (via service radio) that he was set up at the intersection of NM Hwy 9 and Pete Domenici Hwy. with the Controlled Tire Deflation Device (CTDD). BPA 2 advised (via service radio) that the black Dodge pickup was reaching the intersection. The SBPA deployed the CTDD, successfully spiking both front tires of the black Dodge pickup.

BPA 2 advised (via service radio) that he was still following the vehicle at a distance and that it was traveling at a high rate of speed. BPA 2 then advised (via service radio) that the black Dodge pickup was reaching the intersection of Airport Road and Pete Domenici Hwy and was now slowing down due to the tires being deflated. At the intersection of Pete Domenici Hwy and Airport Rd. another BPA assumed the primary position behind the black Dodge pickup in his marked unit.

BPA 2 continued to follow the black Dodge pickup towards the McNutt and Pete Domenici Hwy intersection. As the vehicle reached the intersection, it attempted to make a left turn onto McNutt Rd, but the vehicle made an abrupt stop at the north corner of intersection. BPA 2 then observed and notified (via service radio) that several subjects were running from the vehicle. BPA 2 ran towards the black Dodge pickup to secure it and any persons that were trying to abscond. BPA 2 was able to observe the driver running from the vehicle and being the same subject that the other BPA 2 identified as driving the vehicle at an earlier time. BPA 2 described the driver as being a young male with an orange or red shirt and a ponytail.

After a short foot pursuit, by other agents that responded to the area, they were able to apprehend all subjects that were attempting to evade apprehension, except the driver.

BPAs conducted an extensive search in the area for the driver. BPAs were able to locate the driver's foot prints. BPAs followed the driver's foot prints across Pete Domenici Hwy towards a neighborhood on Killdeer Rd. BPAs were able to determine that the driver had boarded a vehicle and departed the area.

At approximately 12:08 am on November 5, 2019, one hour after the arrest, BPA 1 received a phone call from a Sunland Police Department Officer. The Officer advised that he received a call out to the address of 314 Carrizo in Sunland Park, NM. The Officer stated that the caller wanted to report his truck as being stolen. The Officer was aware of the incident that Border Patrol Agents had with the same vehicle earlier, since he was on scene assisting. The Officer advised that the individual that had called was RIVAS and wanted to make a report about his stolen vehicle. The Officer provided the police report as: 2019-00011671 and 2019-00011672.

BPA 1 advised the Officer that upon searching the black Dodge pickup, a wallet containing the New Mexico Driver's License belonging to RIVAS was found. The Officer also advised that RIVAS told him that he was with his friend (Juvenile) at the time his vehicle was stolen from him. BPA 1 advised the Officer that the juvenile was in custody at the Santa Teresa Border Patrol Station and was arrested during the Alien Smuggling Scheme.

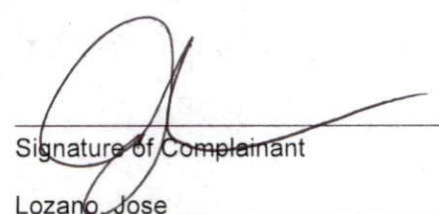
One of the individuals whom BPAs apprehended was identified as a juvenile. The juvenile told BPAs that on November 4, 2019, he was hanging out with his friend, whom he identified as "Rogelio RIVAS," at Rivas's home which is located in Sunland Park, NM. The juvenile further stated he has known RIVAS for approximately four years and knows that he earns money by smuggling "pollos" (illegal aliens) into the United States illegally. The juvenile stated that while he was at RIVAS's house, RIVAS approached him and offered to pay him \$600.00 USD if he would go with him to go pick up a group of illegal aliens near Santa Teresa, NM. The juvenile stated he needed money so he agreed to accompany RIVAS to pick up the illegal aliens. The juvenile further stated that RIVAS was also going to be paid \$2000.00 USD from the smugglers in Mexico.

The juvenile stated that once they were both in agreement, they jumped into RIVAS's vehicle (black Dodge pickup) and began driving towards the U.S/Mexico border in Santa Teresa, NM. The juvenile stated that RIVAS phone does not have service, therefore, RIVAS was using the juvenile's phone to communicate with the smugglers while they were driving. The juvenile stated that once they arrived near the border, they had to wait because the illegal aliens were still in Mexico and

had not jumped over the border fence. The juvenile stated that he knew Border Patrol might have seen them because RIVAS kept driving suspiciously around the area.

The juvenile stated that after a few minutes, they received a call from a Mexican phone number telling them that the illegal aliens had jumped the border fence and were ready to be picked up. The juvenile stated they then drove to the area and several subjects boarded their vehicle. The juvenile stated that RIVAS yelled at the subjects, "apurense, apurense, metanse y agachense" (hurry up, hurry up, get in and lay down). The juvenile stated that they departed the area and began driving away from the border. The juvenile stated that a Border Patrol vehicle attempted to pull them over, but RIVAS told him that he was not going to stop and kept driving at a high rate of speed. The juvenile stated that RIVAS refused to stop and kept driving the vehicle with flat tires. The juvenile stated that that vehicle finally came to a stop and he was arrested by Border Patrol Agents. The juvenile stated that RIVAS ran from the scene and was not arrested. A BPA presented the juvenile a photo line up to which he positively identified RIVAS as the driver of the vehicle. Supervisory Assistant U.S. Attorney Alfred J. Perez approved prosecution of Rivas.



Signature of Judicial Officer

Signature of Complainant

Lozano, Jose

Filing Agent